

ORDINANCE NO. 11-58

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 1 GENERALLY, OF THE CODE OF ORDINANCES AND IN PARTICULAR, BY ADDING A NEW SECTION, HIALEAH CODE § 98-416 ENTITLED "TENANT CERTIFICATES" TO ESTABLISH THE ELDERLY HOMEOWNERS RELIEF ACT TO AUTHORIZE THROUGH AN APPLICATION FOR AND ISSUANCE OF A TENANT CERTIFICATE TO ALLOW ONE RENTAL OCCUPANCY WITHIN DETACHED SINGLE-FAMILY RESIDENCE, GARAGE OR ACCESSORY BUILDING OF A SINGLE-FAMILY HOME WHERE THE PROPERTY OWNER IS 55 YEARS OR OLDER AND CURRENTLY RESIDES AND USES THE PROPERTY AS HOMESTEAD, TO PROVIDE PRECEDENCE OVER OTHER LAND USE AND ZONING REGULATIONS, DEVELOPMENT STANDARDS, LIMITATIONS ON PERMITTED USES, APPLICATION FOR A TENANT CERTIFICATE AND \$75.00 FEE FOR THE FIRST YEAR \$100.00 RENEWAL FEE FOR SECOND YEAR AND \$200 RENEWAL FEE FOR EACH YEAR THEREAFTER, CANCELLATION OF TENANT CERTIFICATE UPON SALE OR TRANSFER; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board recommended approval of this ordinance at its meeting of August 10, 2011; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific intent and purpose of this ordinance is to provide an opportunity for elderly citizens, with fixed or limited incomes, during a severe economic recession, to use a garage, accessory building or a portion of the main residence of their homestead property in which they are living, as a rental occupancy through the issuance of the tenant certificate.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 1. Generally, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by the addition of a new section, Hialeah Code § 98-416 entitled "Tenant Certificates", to read as follows:

Chapter 98

ZONING

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ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 1. GENERALLY

* * *

Sec. 98-416. Tenant certificates.

(a) Purpose and title. This section shall be known hereafter as the Elderly Homeowners Relief Act. The Elderly Homeowners Relief Act authorizes, upon issuance of a tenant certificate, the establishment of one rental

occupancy within a detached single-family residence or garage or accessory building of a single-family home, where the owner or co-owner is at least 55 years old and the property owner currently resides and uses the property as homestead. The primary purpose of the Elderly Homeowners Relief Act is to allow one rental occupancy on homestead residences owned or co-owned by a senior citizen within the habitable space of a detached single family residence, a garage or an accessory building in order to generate income that will help senior citizens preserve the ownership of their homestead.

(b) *Precedence over other land use and zoning regulations.* Notwithstanding any other Code provisions to the contrary, a rental occupancy under the Elderly Homeowners Relief Act shall be allow within a detached single-family residence, garage and or an accessory building, constructed or legalized by a finalized building permit, in R-1 one family residential zoning districts subject to the regulations contained in this section and pursuant to a tenant certificate. To the extent that any conflict may arise between the criteria of this district and the criteria of the R-1 zoning district, the provisions of the Elderly Homeowners Relief Act shall prevail.

(c) *Development standards.*

(1) Size. A rental occupancy shall not exceed 500 square feet in gross floor area. A rental occupancy shall only contain one bedroom or sleeping quarters for no more than two people.

(2) Location. A rental occupancy shall only be allowed within the habitable space of the existing residence or addition of the residence, constructed pursuant to a finalized building permit; or garage or accessory building constructed pursuant to a finalized building permit.

(3) Minimum frontage. A rental occupancy shall be located only on properties that have a minimum frontage of 50 feet.

(d) *Limitations on permitted use.*

(1) Use limitation. One rental occupancy shall be allowed one lot or parcel of land zoned R-1 one family residential district or more than one lot, if joined by a unity of title or developed as a single family residence. The property owner must also live in the main residence on the property as the property owner's homestead. The property owner shall not rent out the main residence and live in the garage or accessory building. A declaration of restrictive covenants approved by the city setting forth this tenancy requirement and compliance with the section signed by the property owner shall be submitted to the city.

(3) Living quarters. The rental occupancy issued pursuant to a tenant certificate may include a microwave, hot plate, stove, refrigerator, air conditioning unit and floor and wall cabinets.

(4) Parking. Tenants of the rental occupancy shall be allowed to park no more than two motor vehicles on the property.

(e) Application for a tenant certificate. Property owner shall complete an application for tenant certificate and pay an application fee of \$75.00 and provide a site sketch prepared by a licensed general contractor, engineer, architect or architect intern. The property owner shall provide proof of homestead exemption and a signed declaration of restrictive covenants.

(f) Renewal. On October 1, 2012, the rental occupancy shall be renewed for a fee of \$100.00 for one year. On October 1, 2013 and each year thereafter, the rental occupancy shall be renewed for a fee of \$200.00.

(g) Cancellation upon sale or transfer. If the property is sold or transferred, then the tenant certificate is automatically cancelled. The new property owner shall apply for the tenant certificate as if it is an initial application for the rental occupancy.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED AND ADOPTED this 13th day of September, 2011.

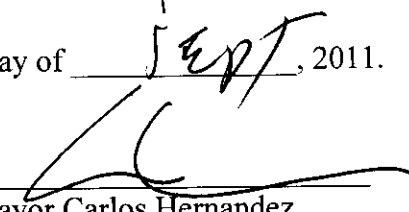
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia-Martinez
Council President

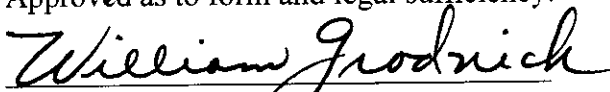
Attest:

Approved on this 14 day of Sept, 2011.


David Concepcion, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 6-1 vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes", Councilmember Casals-Munoz voting "No".